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EXAMINER

REICHLER, KARIN M

ART UNIT PAPER NUMBER

3761

DATE MAILED: 11/25/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/865,836

Applicant(s)

DALEY ET AL.

Examiner

Karin M. Reichle

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 September 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 4-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 4-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement filed 4-14-03 fails to comply with 37 CFR 1.97[©] because it lacks a statement as specified in 37 CFR 1.97(e). It has been placed in the application file, but the information referred to therein has not been considered.

The statement does not set forth that the information was "first cited" in the counterpart application no more than 3 months prior to the filing of the IDS. Furthermore, it is noted that the '941 reference is incomplete, i.e. the Figures are missing. It is also noted that a copy of the any search report from the counterpart application was not provided.

Specification

Drawings

2. The corrected or substitute drawings were received on 9-8-03. These drawings are approved.

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the invention as claimed

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in claims 1-2, and 4-11, as best understood, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

See discussion *infra*, and, e.g., where is the differing density as claimed in claims 1-2 and 11 shown? The superabsorbent as claimed in claims 1 and 4, etc.?

4. The drawings are objected to because it is unclear what the element 37, i.e. "the area outside the target area", is, i.e. the portion of the liner layer outside the target area, see Figure 1, the portion of the core and distribution layer outside area 36, the portion of only the core outside the area 36, see Figures 2a-2b, or the portion of all the layers outside 12 and 36? A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

5. Applicants remarks on page 7 are unclear. It is assumed that the Figures filed 9-8-03 replace all prior Figures.

Description

6. The disclosure is objected to because of the following informalities: 1) It is still unclear what "the area outside the target area" as well as "not below the target area" is. A consistent description both pictorial, see drawing objections *supra*, and textual, see the amendment to page

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9, line 12, lines 9-10, should be set forth. Note also claims 1 and 11 and claim 10. Also the portion of the specification as originally filed which provides support for such description should be set forth. It is noted that Applicants remarks on pages 8-9 do not clarify what "the area outside the target area" is. 2) Applicants now set forth at page 9, line 12, last two lines that "the areas below the target area", i.e. 36, "may correspond in the Z-direction to the areas defined by the target area", i.e. 12. Since such areas have only been described as corresponding in the Z-direction to the areas defined by the target areas, "may" should be deleted. Appropriate correction is required.

Claim Objections

7. Claims 1-9 and 11 are objected to because of the following informalities: on line 1 of claim 1, before "comprising", --the article-- should be inserted. On line 3, before "area"(second), --the-- should be inserted. In claims 2 and 4-6, line 1, "an" should be --the--. In claims 4-5, line 2, "the"(first) should be --an--. In claim 2, change "the"(third) to --an--. In claim 6, "the"(second), should be --an--. In claim 4, before "outside", --an area of the absorbent core-- should be inserted. In claims 7-8, line 1, "wherein" should be --further comprising--. In claim 7, line 1, "has" should be --having--. In claim 8, after "area"(first), insert --which-- and change "area"(second) to --areas--. In claim 11, line 2, change "the"(first) to --a-- and "the" (third) to --an--. Appropriate correction is required.

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Claim Rejections - 35 USC § 112

8. Claims 7 and 8 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claims 7 and 8 can include both the distribution layer and core area corresponding to the target area having binder and being more hydrophobic whereas it is described that only the distribution layer or only the core layer has a binder or is more hydrophobic instead of the core structure outside the target area. If Applicant traverses this rejection the portion of the specification as originally filed which provides the support for such description should also be set forth.

Claim Language Interpretation

9. Personal care product" is defined as set forth on page 7, lines 15-17. "Target area" is defined as set forth on page 7, lines 18-19. As best understood, see discussion supra, "an area outside the target area" and "the area not below the target area" is the area of the article, i.e. all the layers thereof, outside the target area, i.e. in Figures 2a and 2b, the area of the liner, the core, the distribution layer and the backsheet outside the area designated 12.

Claim Rejections - 35 USC § 102

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10. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

11. Claims 1, 4, 6, 9 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Steger et al.

See Figures 1-3, 5-6, col. 1, lines 9-11, col. 2, lines 22-26, 45-51 and 56-65, col. 3, lines 49-55, col. 4, lines 1-9 and 38-52, col. 5, lines 4-6, paragraph bridging cols. 5-6 and col. 6, lines 35-36. The Steger device includes a core which has less superabsorbent and/or slower superabsorbent in an area under the wetting region, i.e. target region, then in the area outside the core area under the wetting region. Since the Steger device includes all the claimed structure, there is sufficient factual basis to conclude that the claimed functions, capabilities and properties of such claimed structure, i.e. lines 2-4 of claim 1, i.e. "target...result of", and lines 5-6 of claim 10, i.e. "wherein...result of", are also inherent in the same structure of Steger, see MPEP 2112.01. It is noted that claim 6 does not require the target area of the core to be of hydrophobic material, i.e. could be just less absorbent than the area outside the target area.

Applicant's attention is also directed to the Dabroski '139 reference, col. 3, lines 21-26, i.e. what is known in the art as "hydrophobic".

12. Claims 1, 6, and 8-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Raidel, PCT '546.

See Figures 1 and 6, the English translation of Raidel, US '714, at abstract, last sentence, col. 3, lines 4-10, 23-24, 31-34, col. 4, lines 21-55, col. 5, lines 23-35, col. 6, lines 41 et seq, col.

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7, lines 29-55, col. 8, lines 42-52. The Raidel device includes a distribution layer 22 and core layer 24 which are more hydrophobic in the area directly below the target area, i.e. the core area does not include superabsorbent or is less dense, than the absorbent core 24a outside the area directly below the target area so that fluid moves preferentially takes place in the x-y plane rather than in the z-direction, i.e. fluid moves in the Z-direction at a slower rate in area below the target area than outside the area below the target area, e.g. at 30 and 24a. Since the Raidel device includes all the claimed structure, there is sufficient factual basis to conclude that the claimed functions, capabilities and properties of such claimed structure, i.e. lines 2-4 of claim 1, i.e. "target...result of", and lines 5-6 of claim 10, i.e. "wherein...result of", are also inherent in the same structure of Raidel, see MPEP 2112.01, if not already expressly set forth by Raidel.

13. Claims 1, ³5, 7, 9-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Hansen et al '896.

See Figure 10, paragraph bridging cols. 3-4, col. 6, lines 52 et seq, col. 7, lines 46-52, col. 10, lines 52-55, col. 22, lines 38-41, col. 47, lines 28-40. The Hansen device teaches an absorbent core which has or has more superabsorbent, i.e. increased density, and a soluble binder in the area directly below the target region than in the area outside that area directly below the target region. Since the Hansen device includes all the claimed structure, there is sufficient factual basis to conclude that the claimed functions, capabilities and properties of such claimed structure, i.e. lines 2-4 of claim 1, i.e. "target...result of", and lines 1 and 5-6 of claim 10, i.e. "wherein...result of" and "A feminine hygiene product", are also inherent in the same structure of

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Hansen, see MPEP 2112.01. With regard to claim 7, see col. 45, lines 25-27, i.e. the core can have multiple layers and such layers also distribute fluid and therefore can also be considered "distribution layers".

13. Claims 1-2 and 10-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Weisman et al.

See Figure, col. 1, lines 9-13, col. 3, lines 27-50, col. 5, lines 48-456 and paragraph bridging cols. 8-9. The Weisman device teaches an absorbent core which has a higher density, at 104, in the area below the target area then in the area outside the area below the target region. Since the Weisman device includes all the claimed structure, there is sufficient factual basis to conclude that the claimed functions, capabilities and properties of such claimed structure, i.e. lines 2-4 of claim 1, i.e. "target...result of", and lines 5-6 of claim 10, i.e. "wherein...result of", are also inherent in the same structure of Weisman, see MPEP 2112.01.

Response to Arguments

14. Applicants remarks on pages 8-9 with regard to formal matters have been considered but are either deemed moot in that they have not been reraised or are deemed nonpersuasive for the reasons set forth supra. Applicants remarks on pages 9-11 with regard to the prior art have been considered but are deemed nonpersuasive because such remarks are narrower than the claim language and inconsistent with the prior art rejections. For example the arguments with regard to the Hansen reference are inconsistent with the prior art rejection because the claims

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rejected were 1, 3, 5, 9-10 not 1, 2 and 11 as argued. Claim 11 does not recite that the density arrangement is indicative of slower movement at all. With regard to the prior art, the references explicitly teach the claimed structure which Applicant claims results in the fluid movement, i.e. the claimed property, function or capability. Therefore Applicant's remarks are narrower than the claim language.

Conclusion

15. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any new grounds of rejection were necessitated by the amendments to claims 1 and 10, see added language.

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to K. M. Reichle whose telephone number is 703-308-2617. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo, can be reached on (703) 308-1957. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.

KMR

November 17, 2003

K. M. Reichle
KARIN REICHLÉ
PATENT EXAMINER